

EXHIBIT Q

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT OF THE UNITED)
STATES VIRGIN ISLANDS,)

Plaintiff,)

vs.) 1:22-cv-10904-JSR

JPMORGAN CHASE BANK, N.A.,)

Defendant/Third-)

Party Plaintiff.)

JPMORGAN CHASE BANK, N.A.,)

Third-Party)

Plaintiff,)

vs.)

JAMES EDWARD STALEY,)

Third-Party)

Defendant.)

THURSDAY, JULY 6, 2023

CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

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Remote Videotaped Deposition of CARLYN IRWIN,

taken pursuant to notice and conducted at the location of

the witness in the State of California, commencing at

9:01 a.m., Pacific Time, on the above date, before Jennifer

A. Dunn, Registered Merit Reporter, Certified Realtime

Reporter, California, Illinois & Texas Certified Shorthand

Reporter, and Missouri Certified Court Reporter.

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1 Q All right. Do you know whether -- was that
2 statute provided to you or did you or your team find it
3 yourself?

4 A If it's not Bates stamped then we would have found
5 it ourselves.

6 Q Okay. Did you review any other Virgin Islands'
7 statutes or regulations in forming your opinions?

8 A Only the background material about the EDC program
9 that I cite in my report.

10 Q Okay. So this Statute 29, Virgin Islands Code,
11 Section 1101, is the only statute or regulation that you
12 reviewed in forming your opinions for this case, correct?

13 A Correct.

14 MR. ACKERMAN: We can take that down, Gina.

15 BY MR. ACKERMAN:

16 Q In forming your opinions for this case, did you
17 speak with any other expert retained by WilmerHale or
18 JPMorgan?

19 A No.

20 Q In forming your opinions for this case, did you
21 speak with anyone other than counsel?

22 A No. Other than counsel and my team, no.

23 Q And again, the members of your team that you spoke
24 with were Mr. Govarra and Ms. Borg and Mr. Kruskol, correct?

25 A Correct. Well, and obviously I mentioned I had

1 A You did.

2 Q Okay. In terms of calculating, or did you --
3 strike that.

4 Did you perform any independent analysis to
5 determine the economic benefits that the territory received
6 in return for tax benefits granted to Mr. Epstein's
7 companies?

8 A I relied on the data that was produced in this
9 litigation by the U.S. Virgin Islands. That's the data I
10 relied upon.

11 Q The data you relied upon are the cost-benefit
12 ratios, correct?

13 A Correct.

14 Q Okay. Is there any other data that you relied
15 upon in calculating the economic benefits that the territory
16 received in return for tax benefits granted to Mr. Epstein's
17 companies?

18 A No. It was solely based on the data provided by
19 USVI in discovery in this matter.

20 Q And when you say: "Data provided by USVI," you're
21 referring only to the cost-benefit ratios, correct?

22 A I'm referring to the Excel spreadsheets that laid
23 out various categories of benefits that went to the island
24 in terms of employment, expenses, taxes, et cetera.

25 Q Okay. And if you look at your Appendix B, those

1 A I do not.

2 Q Okay. Do you know whether it is considered as
3 authoritative by the EDC staff or commission members?

4 A The word "authoritative" is what's hanging me up
5 there. I know that the statistic itself is something that
6 the EDC measures, that it reports to the public in an
7 aggregated fashion, and it is something that the EDC
8 discusses when granting benefits or extending benefits.

9 And I do know that the commission has, through the
10 meeting minutes, I'm aware that the commission has certain
11 ratios that they refer to as either acceptable or
12 unfavorable.

13 Q Did you perform any analysis on your own to test
14 the cost-benefit ratios that were -- that the EDC provided?

15 A We -- when we were summarizing certain year --
16 summarizing performance for certain years, we performed
17 those calculations independently.

18 And in some cases they differed than what's in the
19 table on page 22 of my report.

20 So that would be the extent of the analysis that
21 we did.

22 Q I'm sorry, can you -- for certain years you
23 performed the calculations on your own and they differed
24 from what's on Table 22, or on the table on page 22, is that
25 what you're saying?

1 And the reason for that is in that spreadsheet,
2 the EDC, for whatever reason, didn't include certain
3 benefits in the denominator.

4 Q So is that listed in your -- is that identified in
5 your report somewhere?

6 A It is.

7 Q Where? I'm just not seeing that.

8 A So -- so when we calculated -- if you look at the
9 footnotes.

10 Q Yeah.

11 A We can see the tab that we're looking at. So for
12 tab -- for footnote 133, we are identifying the Excel file,
13 as well as the tab that we are relying on.

14 Q And so where -- sorry, keep going.

15 A I'm just trying to see something here.

16 And so that showed -- that allows anyone to go
17 into the -- the file that we identify and reference the data
18 that we're pulling.

19 Whereas, in 2013 -- in 2013, there was certain
20 components, whether it's procurement or charitable
21 contributions, I don't know because -- but it was -- so, for
22 example, okay, so I can see it.

23 In 2013, the .01 that is calculated by the EDC in
24 the file that they sent to us, if you look at the benefits
25 tab, the calculation is -- results in .01, but that only

1 term, "without any clear economic basis," that's based on
2 the cost-benefit ratios that we discussed earlier, correct?

3 A Correct.

4 Q Is that -- is that based on any other evaluation
5 that you performed?

6 A I think part of it might also be the noncompliance
7 with charitable donations. But that's the only other thing
8 I can think of.

9 Q Okay. And then further down in the paragraph, you
10 note -- I'll just read the whole thing.

11 So it says: "The extending of benefits without
12 any clear economic basis and without USVI asking the
13 appropriate questions to develop a basis for extending them
14 suggests there is some other reason why Mr. Epstein was
15 given \$300 million in tax incentives by USVI and is
16 consistent with the possibility that these benefits were
17 granted as part of an improper quid pro quo exchange between
18 Mr. Epstein and USVI officials."

19 Did I read that correctly?

20 A You did.

21 Q Okay. Are you opining that there was an improper
22 quid pro quo between the USVI and Mr. Epstein?

23 A No. As a CFE, a certified fraud examiner, my
24 understanding is that would be a legal conclusion and is
25 left up to the trier of fact.

1 Q Okay. So you were not opining that there was an
2 improper quid pro quo between the USVI and Mr. Epstein?

3 A Correct. I'm merely saying that it suggests that
4 there's a possibility.

5 Q All right. Are there other possibilities you
6 haven't ruled out?

7 MR. O'LAUGHLIN: Objection.

8 THE WITNESS: I would need to know what other
9 possibilities are out there.

10 BY MR. ACKERMAN:

11 Q Well, could it be that the EDC performs a
12 different analysis than you're performing?

13 A I've seen no evidence that they perform a
14 different analysis. If it's somewhere in the record, it
15 hasn't been produced to me.

16 Based -- I'm using the EDC's own standards that
17 they articulate, their own formula that they set forth, to
18 evaluate the extension of these benefits.

19 Q What about testimony from Ms. Benjamin?

20 Are you aware of testimony from Ms. Benjamin that
21 the cost-benefit ratios are not entirely appropriate when
22 dealing with financial services companies?

23 MR. O'LAUGHLIN: Objection.

24 THE WITNESS: I'm aware of that, but in
25 analyzing other financial service company's data that

1 BY MR. ACKERMAN:

2 Q Then if you go to paragraph G. There's a next one
3 down.

4 It says: "Assess the work done by IDC, EDC, in
5 connection with evaluating, extending benefits to, and
6 monitoring of, Mr. Epstein's companies."

7 Did I read that correctly?

8 A You did.

9 Q And is that part of your assignment in this case?

10 A Yes.

11 Q Okay. So would you agree that you're basically
12 evaluating EDC's work to see if you agreed with their --
13 with their -- with their methodology and their decisions?

14 MR. O'LAUGHLIN: Objection.

15 THE WITNESS: I would say I'm assessing the
16 work that they performed relative to their own
17 benchmarks and standards.

18 So I'm not -- I'm not an expert in their
19 jobs. I'm merely comparing and assessing what they did
20 relative to their own -- their own goals and their own
21 objectives.

22 BY MR. ACKERMAN:

23 Q Were you determining whether EDC did anything
24 illegal?

25 A No.

1 to the same person, or a company backed by the same person,
2 the same person's going to be managing it, and the same
3 person's making the representations that you should put --
4 give some context or some consideration to the historical
5 poor performance.

6 Q And is it your opinion that the EDC should not
7 have granted Southern Trust's certificate?

8 A I don't have an opinion about that one way or the
9 other. I'm just observing what transpired.

10 Q Is it your opinion that Southern Trust acted
11 unreasonably in granting tax benefits. I'm sorry, strike
12 that.

13 Is it your opinion that the EDC acted unreasonably
14 in granting tax benefits to Southern Trust?

15 MR. O'LAUGHLIN: Objection.

16 THE WITNESS: I don't have an opinion about
17 that one way or the other. I'm simply noting that
18 there is this track record of very unfavorable, or I
19 won't say very, of unfavorable and concerning ratios,
20 and they gave the same person a certificate for another
21 10 years.

22 BY MR. ACKERMAN:

23 Q Part of your assignment was to assess the EDC's
24 application process, right?

25 A I think it's more broad than that. But, yes. To

1 of Southern Trust's application for tax benefits?

2 A Except the EDC granted the tax benefits in spite
3 of Financial Trust's poor performance, and a history of an
4 application's projections being not -- being off by a
5 magnitude of 10.

6 Q So are you opining that they should not have
7 granted the benefits of the application?

8 A No. I think I said I'm not opining on whether or
9 not they should have. I'm simply saying as part of my
10 review, I'm observing that they did, in spite of these other
11 factors that I discussed.

12 Q So you're not opining on whether they should have
13 granted the certificate. You're just criticizing their
14 decision to do so?

15 MR. O'LAUGHLIN: Objection. Misstates
16 testimony.

17 THE WITNESS: I'm pointing to the decision as
18 part of my overall opinion regarding the potential
19 other factors that went into the EDC's decision to
20 extend benefits. So it's -- it's one -- it's one of
21 the supporting observations for my overall conclusion.

22 BY MR. ACKERMAN:

23 Q And your overall conclusion, again, is that there
24 is a possibility that other factors went into the EDC's
25 decision to extend benefits, right?

1 A Correct.

2 Q And you don't know what those other factors were,
3 correct?

4 A I know that, as I state in my report, I'm aware of
5 payments that benefited politicians, that benefited
6 officials, and that those could be another factor, but I
7 don't know the universe of potential factors.

8 Q You don't know whether those payments affected the
9 decision, correct?

10 A I don't.

11 Q You stated it might -- it's possible, but you
12 don't know one way or the other, right?

13 A It's possible. A fraud examiner is not allowed to
14 testify about intent.

15 A fraud examiner simply -- and in this case I
16 didn't conduct a fraud investigation, that's not my --
17 that's not the role, you really can't do that in litigation,
18 but it's -- as I stated, my review of the record has given
19 me, you know, I've made several observations that suggest
20 there could be other reasons beyond the benefit to the USVI
21 as to why these benefits were extended over a 20-year
22 period.

23 Q You said you didn't conduct a fraud investigation.
24 What do you mean by that?

25 A So a fraud investigation, as defined by the

1 Association of Certified Fraud Examiners, is an entirely
2 different project. It is someone that a company suspects
3 some sort of wrongdoing, whether it's an issue with the
4 financial reporting or whether it's a misappropriation of
5 assets, et cetera.

6 And then a fraud examiner would, once
7 understanding what the allegations are, what the concerns
8 are, would design a work plan to investigate those
9 allegations, document them, conduct interviews of
10 stakeholders and people who are involved in that aspect of
11 the business, and would ultimately, if -- if there was found
12 to be financial impact, quantify that to the best of that
13 their ability and then issue a report.

14 The report would -- typically goes back to, you
15 know, the audit committee of the company or the risk
16 management arm of the company, and then they decide what to
17 do with it from there.

18 So that's an entirely different exercise.

19 Q Okay. And then that's not what you did here,
20 right?

21 A No. It's -- in my -- I'm unaware of any
22 litigation where a fraud examiner could actually conduct a
23 fraud investigation because it would require access, open
24 access to underlying financial records.

25 It would require open access to witnesses outside

1 the context of a deposition, that type of thing.

2 Q Okay. Let's go to paragraph 67.

3 The first line of that reads: "USVI's EDC did not
4 properly evaluate Mr. Epstein's applications for benefits,"
5 right, and it goes on: "And failed to ask him even the most
6 basic questions based on information that was uniquely
7 available to it about his companies."

8 So is it correct here that you are criticizing the
9 EDC's evaluation of Mr. Epstein's applications?

10 A I'm pointing out that there were inconsistencies
11 in the public hearing testimony that were not resolved.
12 That basically should have raised some sort of questions and
13 follow-up.

14 And moreover, when extending the benefits in 2009,
15 you know, there was discussion about concerns, dangerous
16 precedents, and based on my review of the record, none of
17 that was resolved before extending that application. Excuse
18 me, extending that certificate.

19 Q Did the same people who expressed those concerns
20 vote on the extension of the application?

21 A Well, it was one month later after expressing
22 those concerns. I would presume at least some of the same
23 people were voting.

24 I'm not aware that the EDC's membership or
25 committee completely turned over in a month between April

1 At no time in April when they were talking about
2 this and saying this is a dangerous precedent, et cetera,
3 did someone say, oh, well, we should evaluate them from
4 zero. This is like a fresh statement. Oh, we're going to
5 set them from zero.

6 So to me that's -- that's conflicting information.

7 Q So you are critical of the EDC's decision-making
8 process; is that -- is that a fair characterization?

9 A Again, it's a observation that supports my
10 ultimate conclusion, right. It's -- there was historical
11 poor performance, there was discussion about being
12 concerned, and they moved forward anyway.

13 I'm not -- they may have a ton of reasons that
14 they then talk about on the record, I'm not saying that, but
15 it's part of my overall conclusion. It's something that
16 supports that.

17 Q Okay.

18 A I don't have an independent opinion that they
19 shouldn't have approved this. I'm just observing they
20 approved it in spite of all of these other things and
21 concerns.

22 Q All right. Let's take that document down.

23 You said earlier that there were questions asked
24 at the 2012 EDC public hearing, right?

25 A Correct.

